

UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF CALIFORNIA

OMER MALKA, et al.,
Plaintiffs,
v.
MERCEDES-BENZ, LLC,
Defendant.

Case No. 2:23-cv-01877-CSK

ORDER GRANTING DEFENDANT'S
MOTION FOR SUMMARY JUDGMENT
(ECF No. 47)

Pending before the Court is Defendant Mercedes-Benz USA, LLC's ("Mercedes-Benz USA") motion for summary judgment.¹ (ECF No. 47.) Plaintiffs Omer Malka and Karin Ohayon bring two state law claims for breach of express warranty and breach of implied warranty pursuant to California's Song-Beverly Act. First Amended Complaint ("FAC") (ECF No. 43). Defendant's motion for summary judgment is fully briefed. (ECF Nos. 47, 51, 53, 54.) On July 22, 2025, the Court held an in-person hearing where attorney Meghan Gallagher appeared on behalf of Defendant and Attorney Lior Katz appeared on behalf of Plaintiffs. (ECF No. 22.) For the reasons that follow, the Court GRANTS Defendant's motion for summary judgment.

¹ This case proceeds before the undersigned pursuant to 28 U.S.C. § 636(c) for all purposes, including the entry of judgment, pursuant to the consent of all parties. (ECF Nos. 7, 8, 9.)

I. BACKGROUND

A. Factual Background

On or about April 3, 2022, Plaintiffs leased a 2022 Mercedes-Benz GT53C4 bearing the vehicle identification number W1K7X6BB0NA046172 (“Subject Vehicle”), which was manufactured and/or distributed by Defendant. FAC ¶ 10. The Subject Vehicle was leased to Plaintiffs by non-party Mercedes-Benz of Sacramento. *Id.* At the time of leasing the Subject Vehicle to Plaintiffs, the Subject Vehicle had no prior owners. *Id.* ¶ 15. Plaintiffs were informed that the Subject Vehicle was “dealer-owned” and was used by Mercedes-Benz of Sacramento as a “demonstrator vehicle.” *Id.* ¶¶ 13- 15. Plaintiffs allege the Subject Vehicle came with a 48-month, or 50,000 miles, express warranty that was issued by Defendant. *Id.* ¶¶ 10-12. Throughout a two-year period, Plaintiffs allege they began experiencing issues with the Subject Vehicle that resulted in multiple repairs. *Id.* ¶¶ 23-27. Plaintiffs allege the Subject Vehicle continues to have defects that may result in it needing additional repairs and that none of the repair attempts have thus far successfully repaired the Subject Vehicle. *Id.* ¶¶ 28-29. Plaintiffs therefore allege Defendant is required under state law to promptly offer to repurchase or replace the Subject Vehicle after a reasonable number of repair attempts, which Defendant has failed to do. *Id.* ¶ 31.

B. Procedural Background

Plaintiffs originally filed this action in Sacramento County Superior Court on July 14, 2023 asserting the following six causes of action: (1) violation of California Civil Code § 1793.2(d); (2) violation of California Civil Code § 1793.2(b); (3) violation of California Civil Code § 1793.2(a)(3); (4) breach of express written warranty pursuant to California Civil Code §§ 1791.2(a) and 1794; (5) breach of implied warranty of merchantability pursuant to California Civil Code §§ 1791.1 and 1794; and (6) violation of the Tanner Consumer Protection Act pursuant to California Civil Code § 1793.22, et seq. (ECF No. 1 ¶¶ 13-54.) On August 31, 2023, Defendant filed an Answer in state court (ECF No. 1-2), and subsequently removed this action to federal court pursuant to diversity jurisdiction

(ECF No. 1). On August 5, 2024, Defendant filed a motion for judgment on the pleadings (ECF No. 23), which the Court granted on November 14, 2024, dismissing the Complaint with leave to amend (ECF No. 39). On November 27, 2024, the Court granted the parties' joint stipulation to modify the Court's scheduling order to allow the parties to engage in mediation on February 24, 2025. (ECF Nos. 40, 42.) On December 2, 2024, Plaintiffs filed their FAC alleging two causes of action for breach of express warranty and breach of implied warranty under California's Song-Beverly Act ("SBA") pursuant to California Civil Code §§ 1790, *et seq.* FAC (ECF No. 43). Plaintiffs did not amend to include additional defendants such as Mercedes-Benz of Sacramento. *Id.* Plaintiffs' FAC is the operative complaint in this action and on December 16, 2024, Defendant filed its Answer. (ECF Nos. 43, 44.) On February 24, 2025, the parties engaged in mediation efforts, which were unsuccessful. (ECF No. 46.) On June 2, 2025, Defendant filed this pending motion for summary judgment. Def. MSJ (ECF No. 47).

II. LEGAL STANDARDS

Summary judgment is appropriate when there is "no genuine dispute as to any material fact and the mov[ing party] is entitled to a judgment as a matter of law." Fed. R. Civ. P. 56(c). The principal purpose of summary judgment is to dispose of factually unsupported claims or defenses. *Celotex Corp. v. Catrett*, 477 U.S. 317, 325 (1986). Therefore, the "threshold inquiry" is whether there are any factual issues that could reasonably be resolved in favor of either party, or conversely, whether the facts are so one-sided that one party must prevail as a matter of law. *Anderson v. Liberty Lobby, Inc.*, 477 U.S. 242, 250-52 (1986). Summary judgment should be entered, after adequate time for discovery and upon motion, against a party who fails to make a showing sufficient to establish the existence of an element essential to that party's case, and on which that party will bear the burden of proof at trial. *Celotex Corp.*, 477 U.S. at 322. "[A] complete failure of proof concerning an essential element of the nonmoving party's case necessarily renders all other facts immaterial." *Id.* at 323.

In a summary judgment motion, the moving party must inform the court of the

1 basis for the motion and identify the portion of the record that it believes demonstrates
2 the absence of a genuine issue of material fact. *Celotex*, 477 U.S. at 323. If the moving
3 party meets its initial burden, the burden then shifts to the opposing party to establish
4 that there is a genuine issue of material fact. *Matsushita Elec. Indus. Co. v. Zenith Radio*
5 *Corp.*, 475 U.S. 574, 585 (1986). To establish the existence of genuine issue of material
6 fact, the opposing party may not rely upon the allegations or denials of its pleadings, but
7 must tender evidence of specific facts in the form of affidavits, and/or admissible
8 discovery material. See Fed. R. Civ. P. 56(c); *Matsushita*, 475 U.S. at 586 n.11. The
9 opposing party must demonstrate that the fact might affect the outcome of the suit and a
10 reasonable jury could return a verdict for the opposing party. See *Anderson*, 477 U.S. at
11 248; *T.W. Elec. Serv., Inc. v. Pacific Elec. Contractors Ass’n*, 809 F.2d 626, 630 (9th Cir.
12 1987). For the moving party to succeed, the court must conclude that no rational trier of
13 fact could find for the opposing party. *Matsushita*, 475 U.S. at 587.

14 All reasonable inferences that may be drawn from the facts placed before the
15 court must be drawn in favor of the opposing party. See *Anderson*, 477 U.S. at 255;
16 *Matsushita*, 475 U.S. at 587. Nevertheless, inferences are not drawn out of the air, and it
17 is the opposing party’s obligation to produce a factual predicate from which the inference
18 may be drawn. See *Richards v. Nielsen Freight Lines*, 602 F. Supp. 1224, 1244-45 (E.D.
19 Cal. 1985), *aff’d*, 810 F.2d 898, 902 (9th Cir. 1987). In addition, while a verified
20 complaint may be considered as evidence at the summary judgment stage “if it is based
21 on personal knowledge and if it sets forth the requisite facts with specificity,” *Lopez v.*
22 *Smith*, 203 F.3d 1122, 1132 n.14 (9th Cir. 2000) (en banc), an unverified complaint
23 cannot be considered as evidence. *Moran v. Selig*, 447 F.3d 748, 759-60 (9th Cir. 2006)
24 (citing *Schroeder v. McDonald*, 55 F.3d 454, 460 & nn.10-11 (9th Cir. 1995); *Lew v.*
25 *Kona Hospital*, 754 F.2d 1420, 1423-24 (9th Cir. 1985)).

26 **III. DISCUSSION**

27 Plaintiffs asserts two claims for relief for breach of express and implied warranty
28 pursuant to the SBA against Defendant. FAC ¶¶ 32-60. Defendant moves for summary

1 judgment on both claims on the grounds that: (1) Plaintiffs lack standing to bring their
2 SBA claims; and (2) Plaintiffs have failed to prove the essential elements of their claims.
3 Def. MSJ. Before turning to the merits, the Court first addresses preliminary issues
4 discussed at the Court's July 22, 2025 hearing and evidentiary objections raised by both
5 Defendant and Plaintiffs.

6 **A. Preliminary Issues**

7 First, Plaintiffs argue Defendant's motion is untimely as it was filed "on the eve of
8 the deadline to file" dispositive motions and was filed less than 35 days after service and
9 filing of the motion consistent with Local Rule 230. Pls. Opp'n at 1, 13-14 (ECF No. 51).
10 On November 22, 2024, the parties filed a joint stipulation requesting continuation of
11 certain case deadlines to allow the parties to engage in mediation, including continuing
12 the deadline to file dispositive motions and have dispositive motions heard. (ECF Nos.
13 40, 41.) The Court granted the parties' request on November 27, 2024 to extend the
14 dispositive motion filing deadline to June 2, 2025, and the dispositive motion hearing
15 deadline to July 1, 2025. (ECF Nos. 40, 42.) Defendant timely filed its motion for
16 summary judgment on June 2, 2025, and set it for hearing on July 1, 2025. Def. MSJ.
17 While Plaintiffs are correct that this motion was not noticed under the 35-day timeline of
18 Local Rule 230, this error appears to have been inadvertent and also one that Plaintiffs
19 bear some responsibility for as the parties' joint stipulation set July 1, 2025 as the
20 hearing deadline for a June 2, 2025 motion filing deadline. (See ECF No. 40.)
21 Regardless, the error was corrected as the Court reset the hearing for July 8, 2025.
22 (ECF No. 48.) On June 6, 2025, Plaintiffs filed an *ex parte* request to continue the July 8,
23 2025 hearing to a later date due to unavailability, which the Court granted and reset the
24 hearing date to July 22, 2025. (ECF No. 50.) Defendant's motion is timely. Plaintiffs had
25 an opportunity to respond and did respond to the motion, and any error appears to have
26 been an inadvertent error by both Defendant and Plaintiffs.

27 Second, Plaintiffs argue Defendant violated the Court's Civil Standing Order by
28 failing to meet and confer 28 days prior to the dispositive motion filing deadline to

1 determine whether the parties intended to file cross motions for summary judgment,
2 therefore depriving Plaintiffs of “being able to timely file a cross motion for summary
3 judgment.” Pls. Opp’n at 9. Defendant disagrees, noting that defense counsel raised the
4 issues with Plaintiffs’ counsel before filing the motion. Def. Reply at 1 (ECF No. 53.) The
5 requirement to meet and confer before the dispositive motion filing deadline is applicable
6 to both parties. The Court rejects Plaintiffs’ argument as it appears that Plaintiffs
7 themselves did not make efforts to meet and confer with Defendant to discuss cross
8 motions for summary judgment, a point Plaintiffs did not contest at the hearing.

9 **B. Evidentiary Objections**

10 Both parties make several evidentiary objections to various exhibits attached to
11 Defendant’s motion for summary judgment and Plaintiffs’ opposition, including objections
12 based on lack of foundation, lack of personal knowledge, relevancy, hearsay, and
13 speculation. See ECF Nos. 51-3, 51-4, 54. The Court may only consider admissible
14 evidence when ruling on a motion for summary judgment. See Fed. R. Civ. P. 56. A
15 party may object that the material used to “dispute a fact cannot be presented in a form
16 that would be admissible in evidence.” Fed. R. Civ. P. 56(c)(2). But, if the evidence could
17 be presented in an admissible form at trial, then the contents may be considered on
18 summary judgment even if the evidence itself is hearsay. *Burch v. Regents of Univ. of*
19 *Cal.*, 433 F. Supp. 2d 1110, 1119-20 (E.D. Cal. 2006).

20 When the Court cites to evidence that a party has objected to when ruling on the
21 cross-motions for summary judgment, the objection is impliedly overruled. The Court
22 denies as moot objections to any evidence upon which it did not rely. See *Mendoza v.*
23 *City of Los Angeles*, 2022 WL 19837951, at *9 (C.D. Cal. Dec. 14, 2022).

24 **C. Defendant’s Motion for Summary Judgment**

25 Defendant moves for summary judgment as to Plaintiffs’ breach of express and
26 implied warranty claims brought under the SBA. See Def. MSJ. The SBA “is a remedial
27 statute designed to protect consumers who have purchased products covered by an
28 express warranty.” *Martinez v. Kia Motors Am., Inc.*, 193 Cal. App. 4th 187, 191 (2011);

1 see also *Rodriguez v. FCA US, LLC*, 17 Cal.5th 189, 200 (2024). A buyer “who is
2 damaged by a failure to comply with any obligation under [the SBA]...may bring an
3 action for the recovery of damages and other legal and equitable relief.” Cal. Civ. Code
4 § 1794(a).

5 1. Express Warranty Claim

6 As to Plaintiffs’ first cause of action, “[a] consumer may bring a claim for breach of
7 express warranty against a manufacturer if their vehicle is a “new motor vehicle” as
8 defined in the Song-Beverly Act.” *Grismore v. Mercedes-Benz USA, LLC*, 2024 WL
9 5001469 (9th Cir. Dec. 6, 2024) (affirming summary judgment for defendant car
10 manufacturer on express and implied warranty claims under the SBA for vehicle leased
11 from a non-party dealership) (citing Cal. Civ. Code § 1794(a)). The SBA “defines ‘new
12 motor vehicle’ to include a new vehicle ‘bought or used primarily for personal’ purposes
13 as well as ‘a dealer-owned vehicle and a ‘demonstrator’ or other motor vehicle sold with
14 a manufacturer’s new car warranty.’” *Rodriguez*, 17 Cal.5th at 195; see Cal. Civ. Code
15 § 1793.22(e)(2). The California Supreme Court has made clear that “a motor vehicle
16 purchased with an unexpired manufacturer’s new car warranty does not qualify as a
17 ‘motor vehicle sold with a manufacturer’s new car warranty’ under [the SBA]’s definition
18 of ‘new motor vehicle’ unless the new car warranty was issued with the sale.” *Rodriguez*,
19 17 Cal.5th at 196. Plaintiffs also must prove the following elements for their express
20 warranty claim: “(1) the product had a defect or nonconformity covered by the express
21 warranty; (2) the product was presented to an authorized representative of the
22 manufacturer for repair; and (3) the manufacturer or its representative did not repair the
23 defect or nonconformity after a reasonable number of repair attempts.” *Robertson v.*
24 *Fleetwood Travel Trailers of California, Inc.*, 144 Cal. App. 4th 785, 798–99 (2006).

25 In their summary judgment motion, Defendant argues Plaintiffs lack standing to
26 bring both of their claims because the Subject Vehicle is not a “new motor vehicle” under
27 the SBA and because Plaintiffs did not receive a new car warranty from Defendant in
28 connection with the sale of the Subject Vehicle. Def. MSJ at 1, 3-4. In opposition,

1 Plaintiffs argue the Subject Vehicle qualifies as a “new motor vehicle” under the SBA
 2 because it was sold as a “demonstrator” vehicle, did not have prior owners, and came
 3 with a full warranty at the time of its lease. Pls. Opp’n at 11 (citing *Rodriguez*, 17 Cal.5th
 4 at 198-200). Plaintiffs’ arguments fail.

5 Like *Grismore v. Mercedes-Benz USA*, the Subject Vehicle was sold as a pre-
 6 owned car without a full new car warranty issued at the time of the sale. See *Grismore*,
 7 710 F. Supp. 3d at 834, *aff’d*, 2024 WL 5001469; see also *Rodriguez*, 17 Cal.5th at 195;
 8 *Edwards v. Mercedes-Benz USA, LLC*, 2022 WL 5176869, at *3 (C.D. Cal. Oct. 5, 2022).
 9 In *Grismore*, the plaintiff was the first consumer to purchase the vehicle, which had been
 10 used by the dealership as a service vehicle. The plaintiff presented the vehicle to the
 11 dealership to repair various issues and after the problems continued, subsequently
 12 brought a lawsuit against the car manufacturer² raising express and implied warranty
 13 claims under the SBA. The district court granted summary judgment for the car
 14 manufacturer where the lease agreement was entered into with the dealership, the
 15 manufacturer was not involved in the lease, and the manufacturer did not provide a new
 16 warranty for the used car at the time of the lease.³ 710 F. Supp. 3d at 834-35. The
 17 *Grismore* court explained:

18 As part of the evidence in support of its Motion, MBUSA
 19 provides a copy of Grismore’s lease with MBO, which
 20 indicates that the Subject Vehicle was “pre-owned” and that it
 21 was not covered by a new or pre-owned warranty. That
 22 portion of the contract—which Grismore signed—states that
 23 “[i]f the vehicle is pre-owned, it is not covered by a warranty
 24 unless indicated by a check in the corresponding block
 25 below.” None of the following three boxes was checked on
 26 the lease: (1) “Remainder of a standard new vehicle warranty
 27 from manufacturer; (2) Pre-owned vehicle warranty from
 28 manufacturer; or (3) Pre-owned warranty from third-party
 provider.”

Id. The Ninth Circuit recently affirmed and expressly rejected the buyer’s argument that

26 ² Defendant Mercedes-Benz USA, LLC was also the defendant car manufacturer in
Grismore.

27 ³ Defendant cited to *Grismore* for the first time in its Reply. See Def. Reply at 3-4. At
 28 the hearing, Plaintiffs responded to *Grismore* and arguments raised in Defendant’s
 Reply.

1 “pre-owned vehicles sold with a balance remaining on a manufacturer's new-car
 2 warranty” qualified as a “new motor vehicle” under the SBA, reasoning that this
 3 argument was rejected by the California Supreme Court in *Rodriguez*. 2024 WL 5001469
 4 at *1.

5 Like *Grismore*, it is undisputed that Defendant manufacturer was not involved in
 6 the non-party dealership’s sale of the Subject Vehicle to Plaintiff. The Subject Vehicle’s
 7 lease agreement with the non-party dealership also had a check box marking the
 8 Subject Vehicle as “pre-owned.” Def. MSJ, Exh. B at 2 (ECF No. 47-4). For the section
 9 on the Subject Vehicle’s “New and Preowned Vehicle Warranty,” the lease agreement
 10 does not indicate the Subject Vehicle is covered by a warranty. *Id.* at 4. Section 15 of the
 11 lease agreement provides:

12 **New and Pre-Owned Vehicle Warranty.** If the vehicle is
 13 new, it is covered by a standard new vehicle warranty from
 14 the manufacturer. If the vehicle is pre-owned, it is not covered
 by a warranty unless indicated by a check in the
 corresponding box below[.]

15 *Id.* Like *Grismore*, none of the check boxes are marked in this section of the lease, which
 16 includes whether a remainder of a standard new vehicle warranty from the manufacturer
 17 is provided; whether the pre-owned vehicle warranty from the manufacturer is provided;
 18 or whether a pre-owned warranty from another third-party provider is provided. *Id.* The
 19 lease agreement, signed by Plaintiffs, clearly identifies that the Subject Vehicle was “pre-
 20 owned” and was not “sold with a manufacturer’s new car warranty” at the time of the
 21 sale. *Rodriguez*, 17 Cal.5th at 195 (quoting California Civil Code § 1793.22(e)(2)); see
 22 also *Grismore*, 710 F. Supp. 3d at 834-35.

23 Furthermore, even if the Subject Vehicle had a balance remaining on the
 24 manufacturer’s new car warranty,⁴ this is not a material fact and insufficient to establish

25 ⁴ See Pls. Opp’n, Exh. 1 at 7-8 (ECF No. 51-2) (Deposition of Defendant’s Rule
 26 30(b)(6) expert, Heather Gurocak, testifying the Subject Vehicle was “leased preowned,
 27 but it did—so it would have come with the remainder of the new-vehicle limited warranty,
 28 which is for four years or 50,000 miles, whichever occurs first[.]”); Def. Response to
 Request for Admission No. 4 (“Admit the vehicle was leased with the remainder of a new
 vehicle limited warranty, the terms of which speak for themselves.”) (ECF No. 51-2 at

the SBA's "new motor vehicle" requirements because the warranty was not issued at the time of the sale of the Subject Vehicle to Plaintiffs. The California Supreme Court has made clear that an unexpired manufacturer's new car warranty does not qualify as a new car warranty under the SBA unless it was issued at the time of the sale of the Subject Vehicle. See *Rodriguez*, 17 Cal.5th at 195-96; *Grismore*, 2024 WL 5001469 at *1. The FAC is unverified and cannot be considered as evidence at summary judgment. See *Moran*, 447 F.3d at 759-60. In addition, Plaintiffs submitted a declaration from Plaintiff Ohayan, stating that Plaintiffs were told the Subject Vehicle was "new," Plaintiffs did not "notice that the lease agreement provided that the [Subject] Vehicle was pre-owned," and instead, Plaintiffs were told that the Subject Vehicle came with a new car warranty issued by Defendant. Decl. Karin Ohayan ¶¶ 6-11 (ECF No. 51-1). These statements, however, do not create a genuine issue of material fact because they are self-serving and lack supporting, admissible evidence. See *F.T.C. v. Publ'g Clearing House, Inc.*, 104 F.3d 1168, 1171 (9th Cir. 1997) ("A conclusory, self-serving affidavit, lacking detailed facts and any supporting evidence, is insufficient to create a genuine issue of material fact."); *Grismore*, 710 F. Supp. 3d at 835-37 (rejecting buyer's self-serving declaration from counsel and buyer's statements that the dealership told the buyer the vehicle was accompanied by a new and full warranty from the manufacturer). Plaintiffs' other arguments and evidence submitted do not create a genuine dispute of material fact. See *Grismore*, 710 F. Supp. 3d at 835-37 (also rejecting buyer's arguments based on Carfax vehicle history report and Vehicle Master Inquiry). Therefore, Plaintiffs cannot recover against Defendant manufacturer on their express warranty claim because the Subject Vehicle is not a "new motor vehicle."

2. Implied Warranty Claim

Plaintiffs' second cause of action is for breach of implied warranty under the SBA. FAC ¶¶ 49-60. Under the SBA, "every sale of consumer goods that are sold at retail in
86).

1 this state shall be accompanied by the manufacturer's and the retail seller's implied
2 warranty that the goods are merchantable." Cal. Civ. Code § 1792. Implied warranties
3 apply to both new and used goods because "[c]onsumer goods' means any new product
4 or part thereof that is used, bought, or leased for use primarily for personal, family, or
5 household purposes." Cal. Civ. Code § 1791(a). Plaintiffs argue that the Subject Vehicle
6 was a new motor vehicle that was accompanied by an implied warranty of
7 merchantability. As described above, this argument fails because the Subject Vehicle
8 was not a new motor vehicle under the SBA.

9 As a used vehicle, Plaintiffs' implied warranty claim still fails because the SBA
10 "does not create implied warranties against manufacturers for the sale of used consumer
11 goods." *Grismore*, 2024 WL 5001469 at *2 (citing Cal. Civ. Code § 1795.5; *Nunez v.*
12 *FCA US LLC*, 61 Cal. App. 5th 385, 275 Cal. Rptr. 3d 618, 628 (2021)). California Civil
13 Code § 1795.5 assumes "that the manufacturer and the distributor/retailer are distinct
14 entities." *Nunez*, 61 Cal. App. 5th at 399. Here, Plaintiffs elected not to bring claims
15 against the distributor retailer (the dealership) who sold the Subject Vehicle to Plaintiffs
16 and entered into the lease agreement with Plaintiffs, and there is no evidence that
17 Defendant manufacturer acted as the retailer or distributor or was involved in the lease
18 agreement with Plaintiffs. Therefore, Plaintiffs cannot recover against Defendant
19 manufacturer on their implied warranty claim.

20 **IV. CONCLUSION**

21 In conclusion, Plaintiffs' breach of express warranty claim fails because the
22 Subject Vehicle is not a new motor vehicle under the SBA. See *Grismore*, 2024 WL
23 5001469 at *1-2; *Rodriguez*, 17 Cal.5th at 195-96. Plaintiffs' implied warranty claim fails
24 because the Subject Vehicle is not a new motor vehicle and an implied warranty claim
25 cannot be brought against a manufacturer for the sale of a used vehicle. See *Grismore*,
26 2024 WL 5001469 at *2. Defendant is therefore entitled to summary judgment on
27 Plaintiffs' claims and the Court declines to address the parties' remaining arguments.

28 ///

1 IT IS HEREBY ORDERED that:

- 2 1. Defendant's motion for summary judgment (ECF No. 51) is GRANTED;
- 3 2. Judgment shall be entered in favor of Defendant; and
- 4 3. The Clerk of the Court is directed to close this case.

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6 Dated: July 30, 2025

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8 CHI SOO KIM
UNITED STATES MAGISTRATE JUDGE

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